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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,703	04/30/2001	Shozo Imanishi	M2057-68	4923
7278	7590	04/21/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			HANSEN, COLBY M	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,703

Applicant(s)

IMANISHI, SHOZO

Examiner

Colby Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-20 and 36 is/are pending in the application.
- 4a) Of the above claim(s) 1-16, 21-35, 37 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-20 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Newly submitted and amended claims 1-3, 21, 22, 34, 35, 37, and 38 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the first and second drive branching links are directed towards non-elected species A2, A5, A6, and A7 (not to the elected species A1; paragraph 140).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-3, 21, 22, 34, 37, and 38 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US Pat. 5,860,318).

Thomas (US Pat. 5,860,318) discloses a slide drive having a slide 12,16, comprising:
means for adjusting said slide drive device 14;

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said adjusting means being effective to adjust a stroke of said slide (end effector generally locate at and with 12, 16);

said adjusting means 14 being pivotable about a center position to adjust said stroke;

said adjusting means being pivotable to a specified angle to adjust a stroke of said slide;

and said adjusting means transferring a sliding, reciprocating motion to said slide;

said center position being one of a top and a bottom dead center position of said slide;

said adjusting mechanism permitting said adjustment without changing said one dead center position;

said adjustment changing said other dead center position of said slide (bottom dead center always the bottom stroke point of 12, due to the guide being arcuate about point 20);

said adjusting means 14 receiving a reciprocating motion;

means for guiding said slide drive device (telescoping guide between 16 and lower half);

a connecting link 28;

said connecting link being effective to transfer said reciprocating motion to said guiding means;

said guiding means being effective to convert said reciprocating motion to a guiding displacement;

at least one drive branching link in said guiding means 24;

at least one of a first and a second upper toggle means 30;

said at least one upper toggle means 30 for driving said slide in a cycle;

said at least one drive branching link 24 transferring said guiding displacement to said one upper toggle means; and

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said one upper toggle means 30 being effective to transfer said guiding displacement to said slide and drive said slide through said cycle;

a connecting rod 22;

said connecting rod 22 slidably guided by said adjusting means;

a crankshaft 18;

an eccentric part on said crank shaft 20;

said connecting rod 22 operably connects said eccentric part to said adjusting means; and

said connecting rod 22 operably connects said eccentric part to said adjusting means; and

said connecting rod 22 being effective to transfer said reciprocating motion to said adjusting means whereby said slide operates thru said cycle;

said adjustment means is operably affixed to said connecting rod 32;

said adjusting means is operable to guide said connecting rod along a specified trajectory 34; and

said adjusting means is pivotable about said center position to adjust said specified trajectory whereby said stroke is adjusted.

said means for adjusting said slide drive device comprises a guide board (the slot of 34) with a slider (the pin associated with part 32) that slides while receiving said reciprocating motion.

Claims 18-20 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (US Pat. 5,860,318).

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Thomas (US Pat. 5,860,318) discloses the claimed invention except for the guide board and slide sliding linearly. As applicant has not disclosed the relevance of such a feature over a curved slide, it is deemed a matter of obvious engineering to alter Thomas (US Pat. 5,860,318) in such a way in order to derive the necessary output stroke. Furthermore, giving the slide an optimal curvature (in this case, zero curvature), would have been obvious to one having ordinary skill in the art at the time the invention was made in order to get the optimal stroke output with regard to displacement and gear reduction, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ (CCPA 1980).

Furthermore, Thomas (US Pat. 5,860,318) does not disclose separate drive trains in the form of first and second toggle means 30 deriving from the same input and extending to separate outputs (fig. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized at least one additional drive train connected to the same rotational input so as to allow for effectively at least doubling the output of the pickling apparatus, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Response to Arguments

Applicant's arguments filed 1/5/2005 have been fully considered but they are not persuasive.

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Applicant argues that Thomas does not disclose the “first and second drive branching links branch off separately from the guiding means to work in tandem to toggle the first and second toggle means”. Examiner does not agree or disagree with applicant’s assessment other than to point out that the first and second drive branching links (presumably 27 and 51 as there is no antecedent basis for the “first” and “second” designation) are directed to non-elected species as confirmed by applicant’s specification (paragraph 140). Therefore the arguments are moot given that the effected claims are been withdrawn.

Applicant also argues that Thomas does not disclose “a slide drive device for a press machine having a slide”. Applicant’s “for a press machine having a slide” is an intended use, functional recitation, which is acceptable so long as it sets definite boundaries on the patent protection sought. However, as this is an intended use recitation, Thomas’ drive train must only be capable of performing such a task as actuating a slide press, which it is deemed that it can.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on _____

(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

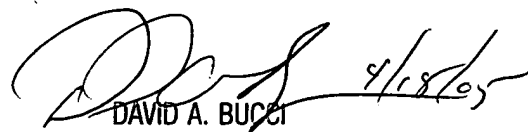
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (703) 305-1036. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Colby M. Hansen

Patent Examiner

 4/18/05